



Committee On Finance

Max Baucus, Chairman

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Senator Max Baucus Statement on the Foreign and Armed Services Tax Fairness Act of 2002

I rise today to introduce the Foreign and Armed Services Tax Fairness Act of 2002 (FAST Fairness) that will not only correct inequities in the current tax code our military men and women are subject to, but it will also provide incentives for our dedicated forces to continue their service to America.

On July 9, 2002, the House passed unanimously a bill, HR 5063 that provided limited relief to military personnel. The bill would provide a special rule for members of the armed forces in determining the exclusion of gain from the sale of a principal residence and would restore the tax-exempt status of death gratuity payments to members of the armed forces. I support the efforts of the House, but believe we can go farther.

These are the men and women that put their lives on the line for our freedom on a daily basis. We need to ensure that laws that we here in Congress pass do not negatively impact them. We should also develop sound policy that serves as an incentive for our youth to follow in the steps of the men and women that went before them to defend our country.

It is with these principles in mind that I move forward with this military tax package and incorporate additional provisions already introduced by my colleagues. I would now like to describe the provisions that I have chosen to include in this critical piece of legislation:

Death Gratuity Payments. On July 24, 2002, Senator Carnahan introduced S. 2783, which would restore the tax exempt status of all death gratuity payments. This proposal is similar to the provision included in HR 5063.

Why is this provision so important? Under current law, death gratuity benefits are excludable from income only to the extent that they were as of September 9, 1986. In 1986, the death gratuity benefit was \$3,000. In 1991, the benefit was increased to \$6,000, but the tax code was never adjusted to exclude the additional \$3,000 from income. Because of this oversight, the U.S. government has been taxing families for the death of a family member who died in combat. This is just wrong.

I support the provisions of HR 5063 and S. 2783, therefore I have included them in this piece of legislation.

Exclusion of Gain on The Sale of a Principal Residence. In 1997, Congress passed legislation revising the taxation of capital gains on the sale of a person's principal residence. The new rule is that up to \$250,000 (\$500,000 per couple) is excluded on that sale of a principal residence if the individual has lived in the house for at least two of the previous five years.

However, when enacted, Congress failed to provide a special rule for military and Foreign Service personnel who are required to move either within the U.S. or abroad. Senators McCain and Graham both have introduced legislation to address this oversight.

I agree that we should adjust the rule for our service men and women. We shouldn't penalize them for choosing to serve our country. My proposal would permit service personnel and members of the Foreign Service to suspend the five-year period while away on assignment, meaning those years would count toward neither the two years nor the five year periods. This is also similar to provisions on HR 5063.

Exclusion of Amounts Received Under Military Housing Assistance Program. The Department of Defense provides payments to members of the Armed Services to offset diminution in housing values due to military base realignment or closure. For example, if a house near a base was worth \$180,000 prior to the base closure and \$100,000 after the base closure, DOD may provide the owner with a payment to offset some (but not all) of the \$80,000 diminution in value. Under current law, those amounts are taxable as compensation.

There will be another round of base closures in the near future. That fate was decided in the FY2002 Defense Authorization bill. We should ensure that those men and women losing value in their homes due to a federal government decision are not adversely affected financially. The proposal would provide that payments for lost value are not includible into income. Recently, Senator Cleland introduced a package that included this provision. I thank him for his unending pursuit to provide military personnel with the best quality of life available. And, I'm happy to include this provision in my legislation.

Expand Combat Zone Filing Rules To Include Contingency Operations. Under current law, military personnel in a combat zone are afforded an extended period for filing tax returns. However, this does not apply to contingency operations. This proposal would extend the same benefits to military personnel assigned to contingency operations.

It can't be easy trying to figure out our complicated tax system while you are overseas and protecting our nation's freedom. Those men and women that have been sent to uphold freedom in other countries are confronted with similar circumstances, such as in Operation Just Cause in Panama, 1989, or in Operation Restore Hope in Somalia in 1992 and 1993, or in Operation Uphold Democracy in Haiti, 1994. Contingency operations are just as demanding as combat zone deployment, although not always in the same manner. I would like to thank Sen.

Johnson for introducing S. 2785. It is important that we support all our troops when they are overseas.

Above-The Line-Deduction For Overnight Travel Expenses of National Guard and Reserve Members. Some reservists who travel one weekend per month and two weeks in the summer for reserve duty incur significant travel and lodging expenses. Under current law, these are deductible as itemized deductions but must exceed 2% of adjusted gross income. For lower income reservists, this deduction does not provide a benefit, because they do not itemize. For higher income reservists, the 2% floor limits the amount of the benefit of the deductions.

In my home state of Montana, we have approximately 3500 reservists, 800 of which travel each month across the state for their training. These 800 reservists pay out of their own pocket the expense for travel, and hotel rooms. In Montana we rank 48th in the nation for per capita personal income. I know it can't be easy for Montanans to incur approximately \$200 in expenses each and every month. Yet, they continue selflessly to provide their services to our country at their own expense. For those reservists that travel out of state for their training, this expense is higher on average. This proposal would provide an above the line deduction for overnight travel costs and would be available for all reservists and members of the National Guard.

This issue is currently addressed in S. 540, which Sen. DeWine introduced back in March of 2001. I can't tell you just how many people have contacted our office in support of this bill. I support what this bill does and I am glad that we can include some of its provisions in my military tax package.

Expansion of Membership For Veterans' Organizations. Recently, Senator Harkin introduced S. 2789, which would expand the membership for Veteran's organizations. Currently, qualified veterans' organizations under section 501(c)(19) of the tax code are both tax-exempt and contributions to the organization are tax-deductible. In order to qualify under 501(c)(19), the organization must meet several tests, including 75% of the members must be current or former active military, and substantially all of the members must be either current or former active military or widows of former active military. The proposal would permit lineal descendants and ancestors to qualify for the "substantially all" test.

It is important that our veterans' organizations continue the good work that they do. But, as the organizations age, they are in danger of losing their tax-exempt status. I support Senator Harkin's bill, as does the American Legion. I have included it in my tax package.

Clarification of Treatment of Child Care Subsidies. Finally, I want to ensure that women in the military can continue their dedicated service even once they have entered motherhood knowing that their children are being well taken care of. The military provides extensive childcare benefits to its employees. DOD employees at DOD-owned facilities provide childcare services while other areas contract out their childcare.

When Congress passed the Tax Reform Act of 1986, we included a provision stating that qualified military benefits are excluded from income. It is not absolutely clear whether child

care provisions are covered under this provision. The proposal would clarify that any childcare benefit provided to military personnel would be excludible from income. Senator Landrieu has introduced S.2807, a similar measure. I support this measure and am proud to include it in this piece of legislation.

Mr. President, it is my intention to mark-up this legislation soon in hopes that we can move it through the Senate quickly. It is important that we continue to show members of the armed forces our support and solidarity during this time of conflict. The War on Terrorism has brought to light the essential role the armed services play in upholding freedom throughout the world. I would like to see a military tax equity bill signed into law by the President before the end of the year.